

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

GOTFRIED JEAN,

Plaintiff,

vs

9:09-CV-430

C.O. BARBER, Correctional Officer; SGT.
CHRISTOPHER; and SUPERINTENDENT
GRAHAM, All of Auburn Correctional Facility,

Defendants.

~~~~~  
APPEARANCES:

GOTFRIED JEAN  
Plaintiff, pro se  
00-A-3295  
Attica Correctional Facility  
Box 149  
Attica, NY 14011-0149

HON. ANDREW M. CUOMO  
Attorney General of the  
State of New York  
Attorney for Defendants  
Department of Law  
The Capitol  
Albany, New York 12224

ADRIENNE J. KERWIN,, ESQ.  
  
Asst. Attorney General

DAVID N. HURD  
United States District Judge

**DECISION and ORDER**

Plaintiff, Gotfried Jean, commenced this civil rights action in April 2009, pursuant to 42 U.S.C. § 1983. By Report-Recommendation dated December 3, 2009, the Honorable George H. Lowe, United States Magistrate Judge, recommended that defendant Graham's

motion for to dismiss for failure to state a claim (Docket No. 13) be granted with leave to amend. No objections to the Report-Recommendation have been filed.

Based upon a careful review of the entire file and the recommendations of Magistrate Judge Lowe, the Report-Recommendation is accepted and adopted in all respects. See 28 U.S.C. 636(b)(1).

Accordingly, it is

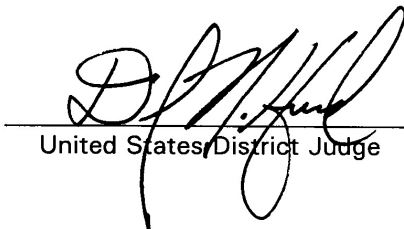
ORDERED that

1. Defendant Graham's motion to dismiss for failure to state a claim is GRANTED with leave to amend within thirty days of the date of this order;

2. Plaintiff's failure to amend the complaint within thirty days of the date of this order will result in the complaint being dismissed as against defendant Graham without further order of this court.

IT IS SO ORDERED.

Dated: January 11, 2010  
Utica, New York.



United States District Judge